8179459/2023/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by Smt. Madireddy Sailaja, W/o. Late Venkateswar Rao, R/o. Venkatareddy peta Village, Yetapaka Mandal, Alluri Sitharamaraju District - Against the Orders of the Additional Agent to Government in C.M.A No: 297/2007, dated:21.6.2008 in respect of Acres 5.48 guntas in Survey No:63 of Penuballi (V), Alluri Sitharamaraju District erstwhile East Godavari District Dismissed- Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.77

Dated:21.11.2023
Read the following:

1. Revision Petition filed by Smt. Madireddy Sailaja, W/o. Late Venkateswar Rao, R/o. Venkatareddy peta (V & Post), Yetapaka Mandal, Alluri Sitharamaraju District, dated. 16-10-2008.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No. 297/2007, dated: 09.09.2009.

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ORDER:

In the reference 1st read above Revision Petition filed by Smt. Madireddy Sailaja, W/o. Late Venkateswar Rao, R/o. Venkatareddy peta Village, Yetapaka Mandal, Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A No:297/2007, dated:21-6-2008 in respect of Acres 5.48 guntas in Survey No:63 of Penuballi (V), Alluri Sitharamaraju District erstwhile East Godavari District.

2. **Brief history of the subject case:**

a) The case was initiated by the Agency Divisional Officer, Bhadrachalam, in LTR case No. 15/07/BCM between the Kangala Lakshmi (ST) as petitioner and Sri Papineni Chandra & Madireddy Sailaja (Non-Tribe) as Respondents under section 3(1) (a) A.P.S.A.L.T.R., 1959 as amended by Regulation 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Sri Papineni Chandra Mohana Rao & Madireddy Sailaja).

b) The Agency Divisional Officer & Sub-Collector, Bhadrachalam after due verification of the records has observed that Respondent-2,

(P.T.O.)

c) Madireddy Sailaja, W/o. Late Venkateswara Rao claimed that she was adopted the transferor. But no documents filed to prove that she was adopted. It is clear violation of Regulation 1/59 as amended by the regulation 1/70.

d) Hence, the Agency Divisional Officer & Sub- Collector, Bhadrachalam has order ejectment of the respondent or whomever is in possession of the immovable property described in the schedule given below and direct that the immovable property in Sy.No.63, to an extent of 5.48 cts in Penuballi Village, Bhadrachalam and directed that the immovable property in question be taken into Government custody under cover of panchanama and assign the same to the eligible tribals as per rules in force vide LTR case No. 15/BCM/07, dated: 14-09-2007.

e) Aggrieved by the orders of the Agency Divisional Officer & Sub Collector, Bhadrachalam, Smt. Madireddy Sailaja (Non-Tribe) has filed an appeal before the Additional Agent to Government, Bhadrachalam. The Additional Agent to Government, Bhadrachalam after due verification of the records has observed that the transaction took place between Non Tribes and Tribes.

f) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has Ordered dismissed the appeal on 21-06-2008. Against the said order the present Revision is filed by the Revision Petitioner before the Government and also observed that Revision Petitioner has failed to explain how she got the property of Papineni Chandra Mohan Rao who is the 5th Respondent. But she has not filed any adoptions deed or any proof of adoption to prove her case. The Revision Petitioner failed to prove how she got the land & under what document she claiming the land. The Revision Petitioner has not filed any documents to that effect. The burden lies on the Non-Tribal petitioners to prove possession is lawful & not in contravention of the regulations.

3. Aggrieved by the above orders, by Smt. Madireddy Sailaja, W/o. Late Venkateswar Rao, R/o. Venkatareddy peta Village, Yetapaka Mandal, Alluri Sitharamaraju District has filed a Revision petition dated: 16.10.2008, before the Government of A.P., against the orders of the Additional Agent to the Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in C.M.A. No. 297/2007, dated:21-6-2008 in respect of Acres 5.48 guntas in Survey No:63 of Penuballi Village, Alluri Sitharamaraju District erstwhile East Godavari District with a request to set aside the orders of the Additional Agent to Government in CMA No:297/2007, dated: 21.6.2008 in the interest of

Justice and to pass such other or orders as this Hon'ble Government may deem fit and proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 09.09.2009 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No. 297/2007, dated: 21-06-2008 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 07.03.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Memorandum of Revision Petition is filed by Smt. Madireddy Sailaja, W/o. Late Venkateswarao, R/o. Venkatareddy peta Village, Yetapaka Mandal, Alluri Sitharamaraju District, against the orders of the Additional Agent to Government, Bhadrachalam, with regard to the lands admeasuring Acres. 5.48 guntas in Survey. No: 63 of Penuballi Village, Bhadrachalam Mandal, Khammam District, passed in C.M.A No: 297/2007, Dated: 21.06.2008, dismissing the appeal, duly upholding the orders of the Agency Divisional Officer, Bhadrachalam, passed in LTR Case No. 15/BCM/07, Dated: 14/09/2007, ordering to take in to the custody of Government, and assign the same to the eligible Tribals.

(II) The matter came for hearing finally before the Revision Authority on 07.03.2023. Heard the parties. The following order is made after perusal of the material documents available on the record.

(III) The main grounds of the Revision Petitioner is that the proceedings under the A.P. Scheduled Areas Land Transfer Regulation 1/1959 are not maintainable, since she acquired right title by way of "Sthri Dhanam" and the 4th respondent (Kangla Laxmi) did not raise any objection with regard to possession and has no right to claim, and she is a non-tribe,

and the proceedings were initiated at the instance of natural brother of her and her further contention is that she got the scheduled property through her adoptive father Sri P. Chandra Mohan Rao and settlement officer granted patta to him and pattadar pass books and title deeds were issued in favour of her and requested to set aside the impugned order passed by the Additional Agent to Government.

(IV) The case was initiated by the Agency Divisional Officer, Bhadrachalam in the LTR case No. 15/07/BCM at the instance of Smt Kangala Lakshmi (ST) against the Papineni Chandra Mohan Rao & Madireddy Sailaja (Non-Tribe). During the preliminary enquiry, the Agency Divisional Officer passed an order observing that the Revision Petitioner failed to prove that she was adopted by the transferor of land and the transfer of land in the case was effected between tribal and non tribal in contravention of the sub-section, 1 of the section 3 as laid in the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 read with the Regulation 1 of 1970 after commencement of the said Regulation and as such it is void.

(V) Aggrieved by the said orders of Agency Divisional Officer, Bhadrachalam, the Revision Petitioner here in filed an Appeal before the Additional Agent to Government, Bhadrachalam. The Additional Agent to Government confirmed the orders passed by the Agency Divisional Officer. The Additional Agent to Government filed parwise remarks.

(VI) The Additional Agent to Government submitted para-wise remarks and connected records. The Revision petitioner filed Xerox copies of Land Revenue Copies and settlement order in case No.6583/08, dated. 22.02.1982 belonging to one papineni Chandra Mohan Rao and her claim is that she got the property by way of "Sthri Dhana" and but she failed to explain how she got the property of Papineni Chandra Mohan Rao who is the 5th Respondent herein and there is no proof that the said Chandra Mohana Rao is her adoptive father and not filed any adoptions deed or any proof of adoption to prove her case and other deeds to show that how she got the land and the burden of proof lies on her.

(VII) On the other hand the Respondent 1 i.e. Smt. Kangala Lakshmi filed copy of 14(a) record, and Land Revenue (LR) receipts and the LR receipts show the name of Sri K. Lachaiah who is related to her and he filed a case against the order of

the Settlement Officer in case No.6583 as such she has got interest to claim over the land. However the kist receipts filed dated: 22-02-1959, 18-02-1960 and 10.09.1963 are not sufficient to claim the scheduled property by her as such she is not entitled to seek the restoration of land.

(VIII) The Additional Agent to Government justified his position to confirm the order of the Agency Divisional Officer/ preliminary authority and further directed the Mandal Revenue Officer, Bhadrachalam to take steps for cancellation of Pattadar pass book and title deeds, issued to the appellant herein as per the procedure laid down in the ROR Act and take over the possession of the suit schedule land into the Government custody under cover of panchanama whoever is in possession and distribute the same to the eligible tribal. This Revision Petitioner has challenged the impugned order of the Additional Agent to Government.

(IX) The background of case and rival submissions give rise to following points for consideration."Whether the claim of the Revision Petitioner is valid either through way of succession of the scheduled property through one Sri Papineni Chandra Mohan Rao or through transfer of shtri dhana and Whether the occupation and possession of such lands is violative of the provisions of the AP Scheduled Area Land Transfer Regulations of 1 of 59 as amended by 1 of 70"?

"The Clause (b) of Section 3(1) which was substituted by Regulation 1 of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favour of non-tribes is prohibited under the Land Transfer Regulations 1 of 70.

(X) The argument of the Revision Petitioner is that the land originally belonged to one Sri Papineni Chandra Mohan Rao. The records also show that the revenue records are stood over in the name of Sri Papineni Chandra Mohana rao. But her claim is that she is an adopted daughter of him.

(XI) However there is no evidence on record to show that she was adopted by Sri Papineni Chandra Mohana rao, who is also a non-tribe. In the absence of proof in respect of the adoption, the Revision Petitioner cannot claim the schedule property

through any way of transfer from said Chandra Mohana rao. As per the enquiry of the Additional Agent to Government, the land records show the ownership and possession in favour of said Chandra Mohana Rao only from 1994 onwards. On the other hand there is no valid evidence on record to show that the Revision Petitioner acquired the schedule land from him. Therefore the occupation and possession of the Revision Petitioner is hit by the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70.

(XII) Section 2 (g) of the Land Transfer Regulations 1 of 59 as amended by 1 of 70 the word "Transfer" means mortgage with or without possession, lease, gift, exchange or any other dealing with immovable property, not being a testamentary disposition and includes a charge on such property or a contract relating to such property in respect of such mortgage, lease, gift, sale exchange or other dealing.

(XIII) The Clause (b) of Section 3(1) which was substituted by Regulation 1 of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Scheduled Tribe. The transfer of lands situated in the scheduled area in favour of non-tribes is prohibited under the Land Transfer Regulations 1 of 70.

(XIV) The contention of the Revision Petitioners is that she was granted Ryotwari pass book and title deed. It is relevant to cite a ruling of the AP High Court where in it was held that Transfer if found in contravention of provisions of Section 3(1) (a) of Land Transfer Regulation 1of 59 as amended by 1 of 70, such transfer will not be saved by virtue of validation under provisions of ROR Act (A.P Rights in Land and Pattadar Pass Books Act 1971) (Pathipati Rangamma Vs. Agent to the Government at Khammam (District Collector), Khammam District and others in W.P. No.22643 of 2005. 2010 (4) ALD 769).

(XV) Therefore the non-claimant/Revision Petitioner cannot claim any right over the land situated in the scheduled area by virtue of a pattadar pass books and title deeds if there is no proof to claim the land covered by such deeds.

(XVI) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that " the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(XVII) The tribal claimant Smt. Kangala Lakshmi also failed to produce valid legal title over the land in question. The tax receipts will not create a title over the lands in question in favor of the claimants.

(XVIII) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioner is hereby dismissed. Therefore the impugned order dated: 21.06.2008, passed by the Additional Agent to Government, Bhadrachalam in CMA No. 297/2007, is hereby upheld and further directed to assign the land to Smt Kangala Lakshmi, a tribal petitioner if she is also eligible for the same. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 297/2007, dated: 21-6-2008 are hereby upheld and the Revision petition filed by Smt. Madireddy Sailaja, W/o. Late Venkateswar Rao, R/o. Venkatareddy peta Village, Yetapaka Mandal, Alluri Sitharamaraju District against the Orders of the Additional Agent to Government in C.M.A No:297/2007, dated:21-6-2008 in respect of Acres 5.48 guntas in Survey No:63 of Penuballi Village, Alluri Sitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT (TW)

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram, Alluri Sitharamaraju District,
PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Devipatnam Mandal,
Alluri Sitharamaraju District.
The Tahsildar, Nellipaka Mandal,
Alluri Sitharamaraju District.
Sri T.L.K. Sharma and others, Advocates,
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Smt. Madireddy Sailaja W/o. Late Venkateswarao
R/o. Venkatareddy Peta Village, D. No.1-116,
Yetapaka Mandal, Alluri Sitharamaraju District.
Pin-533352: CELL No.6303982639.
Smt. Kangala Lakshmi D/o. Ramaiah
R/o Pandurangapuram Village, Chodavaram Panchayat,
Nellipaka Mandal, Alluri Sitharamaraju District.
Pin-533352, CELL No. 8179516089
Sri Papineni Chandra Mohanrao, W/o. Ranganadharao,
Rtd. Bank Employee, R/o. Labbipeta, Vijayawada, Krishna District.
Copy to:
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The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP
Gazette), Vijayawada.
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// FORWARDED :: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER